

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAN P. HOLICK, JR., STEVEN MOFFITT,
JUSTIN MOFFITT, GURWINDER SINGH,
JASON MACK, WILLIAM BURRELL, and
TIMOTHY M. PRATT,

Plaintiffs on behalf
of themselves and
all others similarly
situated,

Case No. 1:12-CV-584 (DJS)

NOTICE OF CROSS-APPEAL

-against-

CELLULAR SALES OF NEW YORK, LLC, and
CELLULAR SALES OF KNOXVILLE, INC.,

Defendants.

PLEASE TAKE NOTICE that Cellular Sales of New York, LLC and Cellular Sales of Knoxville, Inc. (collectively, “Defendants”) hereby cross-appeal to the United States Court of Appeals for the Second Circuit from each and every portion of the final judgment, Docket Entry No. 484, entered by this Court on May 29, 2020, and the underlying Memorandum-Decision and Order, Docket Entry No. 483, entered by the Court on May 29, 2020.

PLEASE TAKE FURTHER NOTICE that Defendants hereby cross-appeal to the United States Court of Appeals for the Second Circuit from the portion of the District Court’s Memorandum-Decision and Order, Docket Entry No. 431, entered on July 19, 2019, whereby the Court denied Defendants’ motion for summary judgment as to whether Plaintiffs were employees or independent contractors under the Fair Labor Standards Act and the New York State Labor Law.

PLEASE TAKE FURTHER NOTICE that Defendants hereby cross-appeal to the United States Court of Appeals for the Second Circuit from each and every portion of the District Court's Memorandum-Decision and Order, Docket Entry No. 340, entered on July 3, 2018, whereby the Court affirmed the denial of Defendants' request for an Order striking the amendments in Plaintiffs' Third Amended Mandatory Disclosures regarding Plaintiffs' claim for untimely commissions and precluding Plaintiffs from seeking damages in connection with that claim.

PLEASE TAKE FURTHER NOTICE that Defendants hereby cross-appeal to the United States Court of Appeals for the Second Circuit from each and every portion of the District Court's Memorandum-Decision and Order, Docket Entry No. 277, entered on January 3, 2018, whereby the Court affirmed the denial of Defendants' request to conduct additional depositions of each opt-in plaintiff.

PLEASE TAKE FURTHER NOTICE that Defendants in the above-named case hereby cross-appeal to the United States Court of Appeals for the Second Circuit from the portion of the District Court's Memorandum-Decision and Order, Docket Entry No. 241, entered on September 8, 2017, whereby the Court denied Defendants' motion to dismiss Plaintiffs' seventh cause of action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim.

PLEASE TAKE FURTHER NOTICE that final judgment in this matter was entered by the United States District Court for the Northern District of New York on May 29, 2020.

Dated: July 10, 2020

Respectfully submitted,

**CHAMBERLAIN, HRDLICKA, WHITE,
WILLIAMS & AUGHTRY**

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